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RECEIVED

Of Counsel

H. LaDon Baltimore

2004 OCT 22 PM 1:14

TRA DOCKET ROOM

October 22, 2004

Chairman Pat Miller  
c/o Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

04-00372

RE Petition of Hickory Star Water Company, L.L.C. for Approval of Wholesale  
Water Rate Pass-Through Mechanism

Dear Sharla:

Enclosed please find the original and <sup>3</sup>14 copies of a petition by Hickory Star Water Company, L.L.C. for approval of its proposed wholesale water rate pass-through mechanism and the original and 14 copies of the direct testimony of William W. Geary, Jr. on behalf of Hickory Star Water Company, LLC. Also enclosed is my check in the amount of \$25.00 in payment of the filing fee. Please return one date stamped copy of the petition and of the direct testimony in the SASE also enclosed

Sincerely,



H. LaDon Baltimore  
Counsel for Hickory Star Water Company

LDB/dcg  
Enclosures

cc William W. Geary, Jr.  
Joe Shirley, Esq.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF HICKORY STAR</b>	)	<b>DOCKET NO. 04-_____</b>
<b>WATER COMPANY, L.L.C. FOR</b>	)	
<b>APPROVAL OF WHOLESALE WATER</b>	)	
<b>RATE PASS-THROUGH MECHANISM</b>	)	

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**PETITION**

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Hickory Star Water Company, L.L.C. ("Hickory Star Water"), by and through counsel, pursuant to Tenn. Code Ann. §65-5-203 and the Rules of the Tennessee Regulatory Authority ("TRA" or "Authority"), respectfully requests that the TRA approve its petition for a wholesale water rate pass-through mechanism. In support of this petition, Hickory Star Water states as follows.

**I. INTRODUCTION**

1. Full name and address of the principal place of business of the petitioner are:

Hickory Star Water Company, L.L.C.  
1360 Hickory Star Road  
Maynardville, TN 37807-3218

2. All correspondence and communications with respect to this petition should be

sent to the following:

H. LaDon Baltimore  
Farrar & Bates, LLP  
211 7th Avenue North  
Suite 420  
Nashville, TN 37219-1823  
Phone: (615) 254-3060  
Fax: (615) 254-9835  
E-mail: [don.baltimore@farrar-bates.com](mailto:don.baltimore@farrar-bates.com)

## II. STATEMENT OF FACTS

3. Hickory Star Water is incorporated under the laws of the State of Delaware and was authorized to do business in the State of Tennessee by the Secretary of State on August 4, 1998. Hickory Star Water is a public utility pursuant to the laws of the State of Tennessee and its public utility operations are subject to the jurisdiction of the Authority. Hickory Star Water was granted its original certificate of convenience and necessity by the Authority on November 24, 1999 in docket no. 99-00485.

4. Hickory Star Water is a wholly owned subsidiary of Hickory Star, L.L.C. which owns the Hickory Star Marina and Campground in Union County, Tennessee.

5. Hickory Star Water was approved for a rate increase on September 3, 2004.<sup>1</sup> A copy of the Order Granting, In Part, and Denying in Part, Hickory Star's Petition is attached hereto as Exhibit 1.

6. Prior to the formation of Hickory Star Water, the area was served by a spring near Norris Lake. Hickory Star Water was formed at the request of the Division of Water Supply of the State of Tennessee because of a concern over groundwater intrusion into the spring. There was also concern that the spring would not service the increased number of customers in the area. Hickory Star Water currently serves 65 customers. Plans are underway to meter 39 more recreational vehicle spaces to add more customers. The water lines in the service area are very old and the Division of Water Supply of the State of Tennessee has ordered Hickory Star Water to install new water lines. The project is in three phases. Phase 1 has been completed, and phases 2 and 3 will be completed over the next two (2) years. Hickory Star Water's purpose is to

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<sup>1</sup> See, In Re: Petition for Approval of the Minimum Water Rates for the Area Served by Hickory Star Water Company, L.L.C., docket no. 04-0044, Order, September 3, 2004

fulfill the directives of the Division of Water Supply of the State of Tennessee and serve the customers of Hickory Star Marina & Campground. The company, even after the recent rate increase, will incur a loss of \$31,325 for the fiscal year ending June 30, 2005.

### III. ISSUES

7. Hickory Star Water purchases its water from the City of Maynardville, Tennessee ("Maynardville") and resells it to its customers. In the Docket for Approval of its water rates, Hickory Star Water had requested an automatic pass-through of wholesale water rates. This request was in the event that Maynardville increased its wholesale rates to Hickory Star Water. Such request was denied, but the Hearing Officer stated that it would be appropriate to "propose a wholesale water rate pass-through mechanism as a separate filing, outside of a rate case"<sup>2</sup>

8. Hickory Star Water has an agreement with Maynardville in which Hickory Star Water purchases water from Maynardville and resells such water to the customers of Hickory Star Marina & Campground. Attached hereto as Exhibit 2 is the Water Servicing Agreement between Hickory Star Water and Maynardville. Attached hereto as Exhibit 3 is the rate schedule setting forth the price at which Hickory Star Water purchases water from Maynardville.

9. In addition to the payments to Maynardville per gallon, Hickory Star Water also pays Maynardville a fixed monthly fee of \$1,623 per month. Such fixed fee cannot be increased.

#### Wholesale Water Pass-Through Proposal

10 The existing rate schedule of the wholesale supplier (Maynardville) and the new rate schedule of Hickory Star Water approved by the Authority are illustrated in the table attached hereto as Exhibit 4.

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<sup>2</sup> Id., Order, p. 7.

11. In the event Maynardville increases its rates, Hickory Star Water will compute the increased monthly cost of the increase by applying the latest 12 month water usage of Hickory Star Water to the new rate schedule, and subtracting from this adjusted cost, the actual cost for the 12 month period. Therefore, if the new rate schedule results in a cost of \$54,671 as compared to the historical cost of \$44,671, then the additional cost will be \$10,000. Hickory Star Water proposes to increase its rate schedule for each of the rate classes by 20.1% or the \$10,000 increase divided by the total revenues collected in the previous 12 month period. This is illustrated in the table attached hereto as Exhibit 5.

12. Assuming the same usage, the proposed rate schedule will yield to Hickory Star Water the same amount of revenue as the increased cost to Hickory Star Water to purchase water

13. Hickory Star Water commits to file with the Authority 30 days in advance to any proposed change in water rates due to wholesale water cost charges, a new rate schedule and supporting documentation to document the basis for the rate increase.

14. The Order of September 3, 2004 requests "[a] proposal as to how to treat any over or under collected water costs."<sup>3</sup> Hickory Star Water is of the opinion that this proposed pass-through will result in a fair rate and should not result in any over or under collected water costs.

15. Hickory Star Water submits that the above proposed wholesale water pass-through results in rates that are "just and reasonable" as required by Tenn. Code Ann §65-5-201(a).

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<sup>3</sup> Id

16 This petition and proposal will result in regulatory and judicial efficiency by having such proposal in place in the event a rate increase is charged by Maynardville to Hickory Star Water. By establishing such a pass-through procedure now instead of after such a rate increase is set by Maynardville will provide for a orderly consideration of such pass-through mechanism. This will eliminate the necessity of an expedited hearing if such pass-through mechanism were proposed when a rate increase is imposed on petitioner. The resources of the TRA staff are better utilized now to consider such a proposal than for petitioner to seek an expedited hearing when such water rate increase is proposed by petitioner's wholesale water supplier. Customers of Hickory Star Water are better served in that they will be charged as the wholesale rate increase is passed on rather than being charged via a true-up or other mechanism after a rate increase followed by a hearing on a pass-through mechanism.

#### IV. CONCLUSION

17. Petitioner, Hickory Star Water Company, L.L.C , has proposed a wholesale water pass-through mechanism to assure an orderly pass-through of rate increases and fair and reasonable rates for its customers.

WHEREFORE, Hickory Star Water Company, L.L.C. respectfully requests that the Authority approve its proposed wholesale water pass-through mechanism set forth in this petition and grant any other relief as the Authority may deem just and proper.

Respectfully submitted,



H. LaDon Baltimore, BPR #003836

Farrar & Bates, L.L.P.

211 Seventh Avenue North, Suite 420

Nashville, TN 37219

(615) 254-3060

(615) 254-9835 FAX

*Counsel to Hickory Star Water Company, LLC*

**Certificate of Service**

The undersigned hereby certifies that on this the 22<sup>nd</sup> day of October, 2004, a true and correct copy of the foregoing has been forwarded via first class U. S. Mail, hand delivery, overnight delivery, electronic mail, or facsimile transmission to the following.

Joe Shirley, Esq.  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202

  
\_\_\_\_\_  
H. LaDon Baltimore

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**September 3, 2004**

**IN RE:**

**PETITION FOR APPROVAL OF THE MINIMUM  
WATER RATES FOR THE AREA SERVED BY  
THE HICKORY STAR WATER COMPANY**

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)  
)  
)

**DOCKET NO.  
04-00044**

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**ORDER GRANTING, IN PART, AND DENYING, IN PART  
HICKORY STAR'S PETITION**

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This matter is before the Hearing Officer for consideration of the Petition of Hickory Star Water Company, LLC for Approval of Minimum Water Rates ("*Petition*") filed on February 10, 2004. A Hearing on the *Petition* was held on July 23, 2004, pursuant to Tenn. Code Ann § 65-5-203. Based upon the record in this docket, the Hearing Officer grants, in part, and denies, in part, the relief sought in the *Petition* as set forth in this Order.

**Background**

Hickory Star Water Company, LLC ("Hickory Star" or the "Company") provides both water and wastewater service to approximately 65 customers near Norris Lake in Union County, Tennessee. Hickory Star is owned by Carlsberg Recreational Properties, Inc., a California corporation that was originally granted a Certificate of Public Convenience and Necessity ("CCN") by the Tennessee Regulatory Authority ("Authority" or "TRA") on November 24, 1999 in Docket No. 99-00485.

On February 10, 2004, Hickory Star filed its *Petition* with the TRA for a rate increase. While no specific revenue request was made by the Company, Hickory Star did propose to





increase its minimum charge from \$18.38 per month to \$36.76 per month for the first 2,000 gallons consumed per month and to increase its tap fee for new customers from \$585 to \$850. In addition, the Company proposed to pass on to its customers any changes in the cost of water paid to its wholesale supplier, the City of Maynardville.<sup>1</sup>

On March 25, 2004, a Petition to Intervene in this matter was filed by the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"). During an Authority Conference held on April 12, 2004, Chairman Deborah Taylor Tate, Director Pat Miller and Director Ron Jones, the voting panel assigned to this docket, voted unanimously to grant intervention to the Consumer Advocate and appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this matter to make findings of fact and conclusions of law, as necessary, and to render an initial decision on the merits of the *Petition*, pursuant to Tenn. Code Ann. § 4-5-301 and § 65-2-111 and such other legal authority as may be provided by law.<sup>2</sup>

Data Requests to the Company were issued by the TRA on February 13 and April 2, 23 and 28, 2004. The Hearing Officer issued an Order on May 4, 2004 establishing a procedural schedule and setting a Hearing date of June 25, 2004. The Consumer Advocate and the Company engaged in discovery pursuant to the procedural schedule. The Company provided information and documentation in support of its *Petition* through responses to the Data Requests issued by the Authority and discovery propounded by the Consumer Advocate. The procedural schedule was later modified and the Hearing date was moved to July 23, 2004 at the request of the parties.<sup>3</sup> A separate Notice of Hearing was issued on July 15, 2004.

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<sup>1</sup> See *Petition*, Exhibit III and Exhibit IV (February 10, 2004).

<sup>2</sup> See *Order Convening A Contested Case Proceeding, Granting Intervention and Appointing A Hearing Officer* (May 18, 2004).

<sup>3</sup> See *Order Amending Procedural Schedule Resetting Hearing* (June 23, 2004).

On June 17, 2004, the Direct Testimony of William W. Geary, Jr. was submitted on behalf of the Company. Mr. Geary testified that a rate increase is necessary because the Company has sustained losses throughout its entire history and now has a need to install new water lines. Mr. Geary also proposed certain changes to the Company's *Petition*, including the adoption of a Uniform System of Accounts required by the TRA, a change in depreciation rates, and the elimination and refund of an administrative fee charged by the Company that was not previously approved by the TRA. On June 28, 2004, the Company filed the supplemental direct testimony of Mr. Geary. The Consumer Advocate did not submit any pre-filed testimony.

On July 21, 2004, Hickory Star filed the Company's proof of publication showing the increase of rates and the time and place of the Hearing. On July 22, 2004, the Consumer Advocate filed a *Stipulation and Agreement Between Hickory Star Water Company, LLC and the Consumer Advocate & Protection Division of the Office of the Attorney General* ("Stipulation") with the Authority. Among other things, the Stipulation states that the Consumer Advocate does not object to the rate increase sought by Hickory Star. The Stipulation also states that the rate increase will produce additional annual revenues of approximately \$14,336 and that this increase is necessary in order for Hickory Star to continue operations and provide service to its customers. According to the Stipulation, Hickory Star will seek advance approval from the TRA for any pass-through of increases in wholesale water rates, and Hickory Star will provide sufficient notice to its customers of any change in wholesale water rates.

### **The Hearing**

The Hearing in this docket was held before the Hearing Officer on July 23, 2004. The following parties participated in the Hearing through their respective counsel:

Hickory Star Water Company -- **LaDon Baltimore, Esq.**, Farrar & Bates, L.L.P.,  
211 Seventh Avenue, North, Suite 420, Nashville, TN 37219-1823

Consumer Advocate -- **Shilina Chatterjee, Esq.** and **Timothy Phillips, Esq.**,  
Office of the Attorney General, 426 5<sup>th</sup> Avenue N., 2<sup>nd</sup> Floor, John Sevier  
Building, Nashville, TN 37243

William W. Geary, Jr., President of Carlsberg Management, attended the Hearing as a representative of the Company. Hal Novak, Chief of the Energy and Water Division, and Butch Phillips of the Energy and Water Division, participated in the Hearing as TRA Staff. No one from the public in general appeared at the Hearing.

At the outset of the Hearing, the Consumer Advocate summarized the Stipulation and the terms of agreement between the Parties, after which the TRA Staff asked questions related to the Stipulation. The TRA Staff first asked questions of the Parties regarding the calculation of the \$14,336 revenue increase set forth in the Stipulation. The TRA Staff specifically inquired of the Company whether the Parties had properly accounted for one customer that is billed a flat fee for forty (40) separate lots. After reviewing its records, the Company acknowledged, and the Consumer Advocate agreed, that this particular customer had been counted as only one customer in their analysis and that, after correcting this error, the change in rates would actually produce additional revenues of approximately \$23,000 instead of the \$14,336 contained in the Stipulation.<sup>4</sup> The Parties stated at the Hearing that they would stipulate to the corrected increase in additional revenues, and the Hearing Officer directed that an amended Stipulation be filed by the Parties to reflect this change.

The TRA Staff next questioned the Company as to its proposal for a wholesale water pass-through adjustment. Currently, the Company purchases all of its wholesale water from the City of Maynardville ("City"). Under the Company's proposal and its Stipulation with the

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<sup>4</sup> Transcript of Proceedings, pp. 12-14 (July 23, 2004).

Consumer Advocate, if the City adjusted its rates either up or down, Hickory Star would make a revenue neutral adjustment in its billing rate to capture this cost change. Nevertheless, at the Hearing, the Company admitted that it had not reached a decision as to how it would actually implement such a change.<sup>5</sup>

The TRA Staff then questioned the Company regarding its proposed change in depreciation rates. The Company admitted that it had been using IRS depreciation rates for its property and proposed a new book depreciation rate of four (4.0%) percent. At the Hearing, the Company also proposed to adjust its accumulated depreciation for prior periods on a going-forward basis in order to correct prior errors. The Company acknowledged that it had not requested this treatment in its *Petition* but was asking for it at the Hearing. The Consumer Advocate stated that it had no objection to such a change.<sup>6</sup>

The Company was asked to explain the situation in which it began charging customers a \$2.50 per month administrative fee without first obtaining approval from the TRA. The Company stated that this fee was implemented in order to recover the meter reading costs that it paid to an outside service. The charge was discontinued after the Company learned that it should have first obtained TRA approval to implement such a charge.<sup>7</sup> The Company also stated that it intends to refund all prior collections from this administrative fee back to the customers on the first bill after the Hearing.<sup>8</sup>

Finally, the TRA Staff inquired as to the Uniform System of Accounts used by the Company. The Company admitted that it had not been following the Uniform System of

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<sup>5</sup> *Id* at 23

<sup>6</sup> *Id* at 25.

<sup>7</sup> *Id* at 27.

<sup>8</sup> *Id* at 27

Accounts prescribed by the TRA, but had every intention of doing so for all filings made for the year 2004.<sup>9</sup>

### **Amended Stipulation**

On July 28, 2004, an *Amended Stipulation and Agreement Between Hickory Star Water Company, LLC and the Consumer Advocate & Protection Division of the Office of the Attorney General* ("Amended Stipulation") was filed with the Authority. The Amended Stipulation states that the change in the minimum water rates from \$18.38 to \$36.76 for the first 2,000 gallons consumed in a month will produce additional annual revenues of approximately \$22,938.24 instead of the \$14,336 that was reflected in the original Stipulation. In addition, the Amended Stipulation also states that the Parties agree to a depreciation rate of four (4.0%) percent on a going-forward basis, and that the Company will not seek retroactive recovery of depreciation expense in prior periods.

### **Findings and Conclusions**

Based upon the record in this docket, the Hearing Officer makes the following findings and conclusions.

#### **Rate Increase**

The evidence presented demonstrates that the Company will continue to experience operating losses even if the requested rate increase is granted in full. Because the Company will continue to be in an operating loss situation, there is no speculation as to an appropriate amount of rate increase. The Hearing Officer **finds** that the amount of rate increase proposed in the Amended Stipulation is just and reasonable and **approves** a change in minimum rates from \$18.38 per month to \$36.76 per month for the first 2,000 gallons consumed per month and an

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<sup>9</sup> *Id* at 28

increase in the tap fee for new customers from \$585 to \$850. This change in rates will produce additional annual revenue for the Company of approximately \$23,000.

#### **Wholesale Water Pass-Through**

The record does not contain sufficient evidence as to how a proposed pass-through in wholesale water rates would function. With the exception of the Company's answers to the TRA Staff's questions during the Hearing, no analysis was provided by the Company which would show the existing wholesale rates that the Company is presently paying, or a formula as to how any change in wholesale water rates would be calculated and applied to the Company's tariff. There is nothing in the record to support a finding that an automatic pass-through of wholesale water rates is a fair and reasonable manner of resolving this issue. For this reason, the Hearing Officer **denies** the Company's request for the wholesale water pass-through as proposed by the Parties at this time.

Notwithstanding the denial of the Company's request, the Hearing Officer invites the Company to propose a wholesale water rate pass-through mechanism as a separate filing, outside of a rate case. At a minimum, such a proposal should include the following:

1. Proof as to the existing wholesale water cost contained in the Company's base rates;
2. A formula to convert wholesale water cost changes into water billing rates;
3. A commitment to file with the TRA thirty days in advance of any proposed change in water rates due to wholesale water cost changes; and
4. A proposal as to how to treat any over or under collected water costs.

#### **Depreciation Rates**

Hickory Star's original CCN and the tariff filed therewith established the initial rates charged to customers but did not specify the depreciation rates that the Company should adopt. Such a statement would have made for a more timely recovery of the Company's assets.

Nevertheless, this change is becoming critical as the Company begins to expand its plant for the first time. Through the Amended Stipulation the parties have agreed to a proposed book depreciation rate of four percent (4.0%) on a going-forward basis. The Hearing Officer **finds** this depreciation rate to be reasonable and **approves** a depreciation of four percent (4.0%) going forward.

**Unauthorized Application of Tariff Rates**

At the Hearing, the Company admitted that it misapplied a tariff rate to its customers' bills by failing to obtain prior approval from the TRA. From April 2002 through April 2004, the Company overcharged its customers \$3,545 in administrative fees. The Company discontinued this charge and proposes to refund the entire \$3,545 overcollection back to its customers. The Hearing Officer **approves** the Company's proposal to refund \$3,545 to its customers without interest or penalty. The Company, having stated that it will proceed with the refund following the Hearing, shall file with the Authority, in this docket, no later than thirty days from the date of this Order, a letter confirming that all refunds have been made. If the Company determines that it needs to charge customers an administrative fee in the future, the Company will properly file such a request with the TRA for consideration.

**IT IS THEREFORE ORDERED THAT:**

1. Hickory Star's request to increase minimum rates from \$18.38 per month to \$36.76 per month for the first 2,000 gallons consumed per month is granted.
2. Hickory Star's request to increase the tap fee for new customers from \$585.00 to \$850.00 is granted.
3. Hickory Star's request for an automatic wholesale water pass-through mechanism is denied.

4. Hickory Star's request for a change in depreciation rates to four percent (4.0%) on a going-forward basis is granted.

5. Hickory Star shall make refunds to customers totaling \$3,545.00 and file with the Authority, no later than thirty (30) days from the date of the Order, written confirmation that such refunds have been made.

6. Any party aggrieved by the Hearing Officer's decision in this matter may file a Petition for Reconsideration with the Hearing Officer within fifteen (15) days from the date of this Order.

7. Any party aggrieved by the decision of the Hearing Officer in this matter may file a Petition for Appeal with the Tennessee Regulatory Authority within fifteen (15) days from the date of this Order.

8. In the event this Order is not appealed to the Directors of the Tennessee Regulatory Authority within fifteen (15) days, this Order shall become final and shall be effective from the date of entry. Thereafter, any party aggrieved by the decision of the Hearing Officer may file a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.


  
J. Richard Collier, Hearing Officer



EXHIBIT 6

WATER SERVICING AGREEMENT

This Water Servicing Agreement (the "Agreement") is made and entered into this 12 day of MAY, 1999, by and between HICKORY STAR WATER COMPANY, L.L.C., a Delaware Limited Liability Company, authorized and qualified to do business in the State of Tennessee ("Hickory"), and THE CITY OF MAYNARDVILLE OF THE STATE OF TENNESSEE (the "City").

RECITALS

A. Hickory desires to obtain water from the City's water system to service that certain area located in Union County, Tennessee, described on Exhibit "A" attached hereto and made a part hereof (the "Serviced Area").

B. The City is willing to extend the City's water system to the Serviced Area, provided that Hickory undertakes the servicing of individual customers within the Serviced Area.

NOW, THEREFORE, in consideration of their mutual promises contained herein and other valuable consideration, the receipt and sufficiency thereof is hereby acknowledged, the parties agree as follows:

1. Extension of City's Water System.

As soon as practicable following the execution hereof, the City shall, at its sole cost, construct all necessary improvements and install all necessary water lines and equipment to extend the City's water system to the southern boundary of the Serviced Area (the "Connection"). Without limiting the generality of the foregoing, the City shall install improvements, water lines and equipment adequate for servicing the entire Serviced Area, assuming full occupancy as projected by Hickory, including, without limitation, a master water meter for the entire Serviced Area and a 100,000 gallon water storage tank installed at the Connection. Said extension of the City's water system to the Serviced Area (the "Extension") shall be completed within one (1) year from the date of closing of the loan by the Farmers Home Loan Administration (the "FHA Loan") to the City for the purpose of financing the Extension (the "Completion Date"). The obligations of Hickory and the City under this Agreement are each conditioned upon the closing of the FHA Loan. In the event the FHA Loan fails to close by the third (3rd) anniversary of the date hereof, this Agreement shall terminate automatically and thereafter neither party shall have any further obligation hereunder.

2. Water Services to be Provided by the City.

On or before the Completion Date, the City shall service City water to Hickory at the Connection in a quantity sufficient to meet the requirements, from time to time, of all existing and future residential and commercial water users within the Serviced Area. Hickory shall pay to the City a one time tap-in fee of \$800 or cost of tap-in installation, whichever is greater, and a security deposit of \$50 prior to commencement of services by the City. The City shall charge Hickory standard water usage fees that are customarily charged to residents outside the City limits in Union County, Tennessee. In addition to such standard water usage fees, Hickory shall pay to the City a basic service charge in the sum of \$1,623 per month. The Extension and the City's provision of water services hereunder, including without limitation the quality of water, shall comply with all applicable federal, state and local laws, statutes, rules and regulations.

3. Water Services Provided by Hickory.

Hickory shall have the sole right and authority to provide water services, using the City water it purchases, to all residential and commercial water users in the Serviced Area and collect fees and charges for such services at rates established by Hickory in its sole discretion. Hickory shall be solely responsible for the installation of all water lines, equipment and meters required for such services. Provided, however, all installations of water lines, equipment and meters shall conform to the then existing specifications and requirements on file with the City. Hickory shall have the right to sell or otherwise transfer said water servicing business to any third party, provided that the transferee assumes the obligation to pay the water usage fees, the \$1,623 per month basic service charge described in paragraph 2 above and further assumes all other requirements and obligations as are found in this Water Servicing Agreement.

4. Continued Service.

In the event Hickory fails to pay its water bill in full for two consecutive months, Hickory shall offer to sell its water system to the City at a mutually agreeable price. Provided, however, the City shall have no obligations whatsoever to purchase said water system. If the City wishes to purchase the water system, and in the event the parties cannot agree upon a price for the water system, the price for the system shall be settled by arbitration in accordance with the laws of arbitration of the State of Tennessee. If Hickory does not continue to provide water service during such negotiations or arbitration, the City may continue to provide water service directly to

Hickory's customers pending the transfer of its system to the City in the event, and only in the event, that the City should, at its sole and only discretion, desire to purchase said water system. If the City does not desire to purchase the water system, Hickory shall assume and have complete liability and responsibility to provide water service to Hickory's customers and Hickory shall defend, indemnify and hold the City harmless of and from any and all costs, damages and fees associated with Hickory's failure to provide water service or Hickory's failure to comply with any and all terms of this Agreement.

5. Certification by Tennessee Regulatory Authority.

As a condition of service under this Agreement, Hickory shall obtain a certificate of convenience and necessity from the Tennessee Regulatory Authority as required by state law.

6. Memorandum of Agreement.

Concurrently with the execution hereof, the City and Hickory shall execute a Memorandum of Agreement in the form of Exhibit "B" attached hereto and made a part hereof, with proper acknowledgment, and cause such Memorandum to be recorded in Union County, Tennessee.

7. Authority.

Each party hereby warrants and represents that it has the authority to enter into this Agreement and the signatures hereupon shall bind said parties.

8. Notices.

Any notices, requests, demands, instructions or other communications to be given under this Agreement shall be in writing and shall be delivered personally, sent by overnight courier or by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Hickory:

Hickory Star Water Company, L.L.C.  
6171 W. Century Boulevard  
Suite 100  
Los Angeles, California 90045  
Attention: Mr. William W. Geary, Jr.

With a copy to: Sandler and Rosen, LLP  
1801 Avenue of the Stars  
Suite 510  
Los Angeles, California 90067  
Attention: Ming-chu C. Rouse, Esq.

To the City: City of Maynardville  
P.O. Box 217  
Maynardville, Tennessee 37807  
Attention: Maynardville City Manager

With a copy to: Darryl W. Edmondson, Esq.  
120 Court Street  
P. O. Box 789  
Maynardville, Tennessee 37807

Said addresses may be changed from time to time by notice sent in the manner set forth above. All notices shall be deemed delivered on the date personally delivered, or upon receipt if sent by overnight courier, or forty-eight (48) hours after the date deposited into the United States mail.

9. Entire Agreement.

This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto. This Agreement shall be governed by laws of the State of Tennessee.

10. Successors in Interest.

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

11. Counterparts.

This Agreement and any amendment or supplements thereto may be executed in counterparts, and all counterparts together shall be construed as one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

"Hickory"

HICKORY STAR WATER COMPANY, L.L.C.,  
a Delaware limited liability company

By: Hickory Star, L.L.C., a Delaware limited liability  
company, its sole member

By: Carlsberg Recreational Properties, Inc., a Cal. corp.

Its: sole member

By: 

"The City" William W. Geary, Jr., President

THE CITY OF MAYNARDVILLE

By: 

Its: CITY manager

LEGAL DESCRIPTION

EXHIBIT "A"

SITUATED in District No. 4 of Union County, Tennessee, and being known and designated as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 36, 38, 40, 42, 44, 49, 50, 51, 52, and the "Proposed Playground" property which fronts on Hickory Road and is now depicted as Tax Parcel 73.01 on Map 48KA, all in Hickory Star Park, a subdivision to Union County, Tennessee, as shown by map of said subdivision of record on the last page attached to Warranty Book E, Volume 3, in the Union County Register's Office, said lots and parcel being more particularly bounded and described as shown by map aforesaid, to which map specific reference is hereby made for a more particular description.

EXHIBIT "B"

SITUATED in District No. 4 of Union County, Tennessee, and being known and designated as Lots 190, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 102, 103, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, and 163 in Hickory Star Park Subdivision No. 2, a Subdivision to Union County, Tennessee, as shown by map of said subdivision of record in Plat Cabinet A, Slide 11, in the Union County Register of Deeds Office, said lots being more particularly bounded and described as shown by map aforesaid, to which map specific reference is hereby made for a more particular description.

EXHIBIT "C"

SITUATED in District No. 4 of Union County, Tennessee, and being known and designated as Lots 213, 214, 215, 217, 219, 221, 223, 225, 227, 229, 231, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, and 238 in Hickory Star Park Subdivision No. 3, a Subdivision to Union County, Tennessee, as shown by map of said subdivision of record in Plat Cabinet A, Slide 18, in the Union County Register of Deeds Office, said lots being more particularly bounded and described as shown by map aforesaid, to which map specific reference is hereby made for a more particular description.

EXHIBIT "D"

SITUATED in District No. 4, of Union County, Tennessee, and being known and designated as Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of Unit 1, Hickory Star Subdivision, a subdivision to Union County, Tennessee, as shown by map of said subdivision of record in plat Cabinet A, Slide 185, in the Union County Register of Deeds Office, said lots being more particularly bounded and described as shown by map aforesaid, to which map specific reference is hereby made for a more particular description.

EXHIBIT "E"

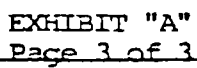
SITUATED in District No. 4 of Union County, Tennessee, and being a certain parcel of property identified as Tax Identification No. 04-056-041.00, and being all that property described in that deed of record in Warranty Book J, Volume 3, page 216, in the Union County Register of Deeds Office, said property being more particularly described in said deed attached hereto.

EXHIBIT "F"

SITUATED in District No. 4 of Union County, Tennessee, and being all of that property identified as Tax Identification No. 04-048-003.00, which parcel contains 66.28 acres, more or less, which property is described in those deeds of record in Warranty Book O, Volume 3, page 182; Warranty Book Q, Volume 4, page 536; and Warranty Book Q, Volume 4, page 539, and in such other deeds to Carl Nelson, Jr., as may appear of record in the Union County Register of Deeds Office. Copies of the three mentioned deeds are attached hereto.

EXHIBIT "G"

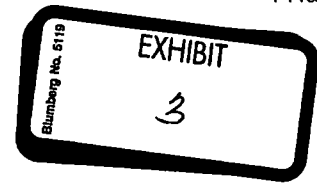
SITUATED in District No. 4 of Union County, Tennessee, and being all of that property conveyed to Hometown Hickory Star, L.L.C., a Delaware limited liability company, by Warranty Deed from TTP, Inc., a California corporation, dated December 12, 1997, of record in Warranty M, Series 6, page 443, in the Union County Register of Deeds Office, said property being more particularly described on said deed attached hereto.





City of  
**MAYNARDVILLE**

P.O. Box 217 • Maynardville, TN 37807-0217  
Phone (423) 992-3821 • Fax (423) 992-6456



**Inside City**

Min. 2000	gallons	\$ 8.75
Next 8000	gallons	3.20/1000
Next 10,000	gallons	3.00/1000
Next 30,000	gallons	2.70/1000
All over 50,000	gallons	2.50/1000

**Outside City**

Min 2000	gallons	\$12.25
Next 8000	gallons	4.55/1000
Next 10,000	gallons	4.25/1000
Next 30,000	gallons	3.80/1000
All over 50,000	gallons	3.50/1000

All Wastewater rates are 100 per cent of the inside city rate structure:

Respectfully,

  
Hazel Gillenwater

	City of Maynardville (1)	Hickory Star Water Company
Minimum 2,000 gallons	\$12 25	\$36.76
Next 8,000 gallons	\$4.55 / 1,000	\$6.83 / 1,000
Next 10,000 gallons	\$4 25 / 1,000	\$6.38 / 1,000
Next 30,000 gallons	\$3.80 / 1,000	\$5.70 / 1,000
All over 50,000	\$3.50 / 1,000	\$5.25 / 1,000



	Assumed Amount Collected by the Company in the Most Recent 12 Months	New Rate Schedule	New Billing (Rate x Usage)
Minimum 2,000 gallons	\$38,700	\$44 15	\$46,490
Next 8,000 gallons	\$6,200	\$8.20 / 1,000	\$7,446
Next 10,000 gallons	\$4,805	\$7 66 / 1,000	\$5,769
Next 30,000 gallons	-0-	\$5 70 / 1,000	-0-
All over 50,000	-0-	\$5.25 / 1,000	-0-
	<b>\$49,705</b>		<b>\$59,705</b>

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

**PETITION OF HICKORY STAR  
WATER COMPANY, L.L.C. FOR  
APPROVAL OF WHOLESALE WATER  
RATE PASS-THROUGH MECHANISM**

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)  
)  
)  
)  
)

**DOCKET NO. 04-\_\_\_\_\_**

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**DIRECT TESTIMONY OF WILLIAM W. GEARY, JR. ON BEHALF OF  
HICKORY STAR WATER COMPANY, L.L.C.**

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1 Q. PLEASE STATE YOUR NAME FOR THE RECORD.

2 A. My name is William W. Geary, Jr.

3 Q. WHAT IS YOUR POSITION WITH THE PETITIONER, HICKORY STAR WATER

4 COMPANY?

5 A. I am the Managing Member of Hickory Star Water Company, LLC.

6 Q. WOULD YOU BRIEFLY DESCRIBE YOUR DUTIES WITH HICKORY STAR

7 WATER COMPANY?

8 A. As the managing member, I determine the policies of the water company including

9 expansion plans and establishing budgets, and I supervise the operations of the company.

10 Q. ARE YOU AN EMPLOYEE OF HICKORY STAR WATER COMPANY?

11 A. No.

12 Q. BY WHOM ARE YOU EMPLOYED?

13 A. I am employed by Carlsberg Management Company.

14 Q. WHAT IS THE RELATIONSHIP BETWEEN HICKORY STAR WATER COMPANY

15 AND CARLSBERG MANAGEMENT COMPANY?

16 A. Hickory Star Water company is a wholly-owned subsidiary of Hickory Star, LLC which

17 owns the Hickory Star Marina and Campground in Union County, Tennessee. Hickory

18 Star in turn is owned by Carlsberg Recreational Properties, Inc., a California corporation.

19 Carlsberg Management Company is affiliated with Carlsberg Recreational Properties,

20 Inc. and manages the operations of Hickory Star and the water company. Carlsberg

21 Management collects the revenues, pays the bills, and employs all of the personnel at

22 Hickory Star.

23 Q. HOW AND WHY WAS HICKORY STAR WATER COMPANY FORMED?

1 A. Hickory Star Water Company was granted authority on November 24, 1999. Prior to this  
2 date, the area was served by a spring near Norris Lake. The water company was formed  
3 at the request of the Division of Water Supply of the State of Tennessee because of a  
4 concern over ground water intrusion into the spring. There was also concern that the  
5 spring would not service the increased number of customers in the area. The water  
6 company currently serves 65 customers. Plans are underway to meter 39 more  
7 recreational vehicle spaces to add more customers. The water lines in the service area  
8 are very old, and the Division of Water Supply has ordered Hickory Star Water Company  
9 to install new water lines. The project is in three phases. Phase one has been completed,  
10 and phases two and three will be completed over the next two years.

11 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

12 A. The purpose of my testimony is to provide information in support of the petition of  
13 Hickory Star Water Company ("Company") for approval of a wholesale water pass-  
14 through mechanism. In the September 3, 2004 Order, the TRA did not approve such  
15 pass-through mechanism, but invited the Company to propose a wholesale water rate  
16 pass-through mechanism as a separate filing outside of a rate case.

17 Q. IS THIS PETITION A RESULT OF THE TRA ORDER?

18 A. Yes. The Company's petition is a request for the approval of a proposed whole water  
19 rate pass-through mechanism.

20 Q. WHY IS A WHOLESALE WATER RATE PASS-THROUGH MECHANISM  
21 NEEDED?

22 A. The Company purchases its water from its wholesale supplier, the City of Maynardville,  
23 Tennessee. In the event Maynardville increases its rates, the Company needs a

1 mechanism by which to pass on such increases to its customers. Even with the most  
2 recent rate increase, the Company will have a loss of \$31,325 for the fiscal year ending  
3 June 30, 2005. The Company therefore needs to pass on any rate increases to its  
4 customers in order to avoid higher losses.

5 Q. WHY DO YOU ASK FOR APPROVAL OF A WHOLESALE WATER RATE PASS-  
6 THROUGH MECHANISM AT THIS TIME?

7 A. As stated earlier in my testimony, the September 9, 2004 Order of the Authority invited  
8 the Company to make this filing. It will allow for administrative and judicial efficiency  
9 by the Authority considering the issue at this time rather than under a potentially  
10 burdensome expedited hearing request if such a petition were filed when a water rate  
11 increase occurred. Also, by having the wholesale water rate pass-through mechanism in  
12 place now, when an increase occurs the mechanism for its implementation is in place.  
13 Customers would not be disrupted by having to have a larger increase per month over  
14 fewer months instead of a reasonable increase spread over the actual 12 months of the  
15 increase. The consideration and implementation of any possible true-ups would be  
16 eliminated.

17 Q. WHAT WHOLESALE WATER RATE PASS-THROUGH MECHANISM DO YOU  
18 PROPOSE?

19 A. If Maynardville increases its rates, then the Company will compute the increased  
20 monthly cost of the increase by applying the latest 12 month water usage of the Company  
21 to the new rate schedule and subtracting from this adjusted cost the actual cost for the 12  
22 month period. Therefore, if the new rate schedule results in a cost of \$54,671 as  
23 compared to the historical cost of \$44,671, then the additional cost will be \$10,000 The

1 Company then proposes to increase its rate schedule for each of the rate classes by 20.1%  
2 or the \$10,000 increase divided by the total revenues collected in the previous 12 month  
3 period. This is illustrated by the table filed with the petition as Exhibit 5.

4 Q WHAT AFFECT WILL THE NEW RATE SCHEDULE HAVE ON COMPANY  
5 REVENUES?

6 A. Assuming the same usage, the new rate schedule will yield to the Company the same  
7 amount of revenue as the increased cost to the Company to purchase water.

8 Q. WILL YOU FILE WITH THE TRA NOTICE OF SUCH WATER INCREASES?

9 A. Yes The Company commits to file with the Authority 30 days in advance of any  
10 proposed change in water rates due to wholesale water cost changes.

11 Q. DOES THE COMPANY HAVE A PROPOSAL AS TO HOW TO TREAT ANY OVER  
12 OR UNDER COLLECTED WATER COSTS?

13 A. The September 3, 2004 Order stated that the petition for a wholesale water pass-through  
14 mechanism should include a proposal as to how to treat any over or under collected water  
15 costs. After thorough study, the Company is of the opinion that the proposed mechanism  
16 should reflect, with a close degree of accuracy, any water rate increases and that there  
17 should not be any over or under collected water costs. However, if the Authority feels  
18 otherwise, the Company will certainly work with the Authority to address this issue.

19 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

20 A. Yes